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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Approving authority name</b>	State Water Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9 VAC 25-800
<b>Regulation title</b>	Virginia Water Protection General Permit for Minor Water Withdrawals
<b>Action title</b>	Virginia Water Protection General Permit WP-5
<b>Document preparation date</b>	August 2, 2004

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_ap.htm](http://www.townhall.state.va.us/dpbpages/dpb_ap.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style, and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The purpose of this proposed regulatory action is to develop a General Permit for water withdrawal activities that have minimal individual and cumulative impact on instream beneficial uses and flow regimes of the receiving waterbody. This new regulation is needed to decrease the cost and time involved in obtaining individual permits for activities with minimal environmental impact while ensuring environmental protection.

## Legal Basis

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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The basis for this regulation is provided for in Sections 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia, which authorize the Board to adopt rules governing the issuance of water quality permits and to issue Virginia Water Protection Permits consistent with the provisions of the Clean Water Act and to protect instream beneficial uses. 9VAC-24-210-10 et seq., Virginia Water Protection Permit Program Regulation, requires permits for water withdrawals as a regulated activity.

## Need

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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The VWP general permits are intended to simplify and streamline the permitting process for activities in state waters that have a minor individual and cumulative impact to the environment. The proposed changes will allow for a more efficient and understandable application submittal and review and authorization issuance process. In turn, this will allow for greater consistency and predictability for the public and less regulatory burden.

## Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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The general permit would limit the maximum withdrawal from a water body based on the size and geographic location of the stream or pond. Furthermore the general permit would include a maximum absolute daily withdrawal beyond which an individual permit would be required. It is also anticipated that the permit would incorporate recommended conservation measures from the Drought Monitoring and Response Report that would be implemented in the event that the State Drought coordinator declared a drought emergency. Applicants would be required to file a registration statement. Those water withdrawers not covered by this general permit would still require an individual VWP permit.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, describe the process by which the agency has considered or will consider, other alternatives for achieving the need in the most cost-effective manner.*

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The alternative of not developing this General Permit would increase staff workload with little environmental benefit and would assess large permit fees and detailed permit conditions for small water withdrawals that do not significantly affect streamflow or instream beneficial uses.

## Public Participation

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also indicate whether a public meeting is to be held to receive comments on this notice. Indicate that 1) the agency is not holding a public meeting because the agency has authorized proceeding without holding a meeting or 2) the agency is holding a meeting. If a public meeting is to be held, indicate that the date, time and place of the meeting may be found in the calendar of events section of the Virginia Register of Regulations.*

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The Board is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this notice or other alternatives, and 3) impacts of the regulation on farm and forest land preservation. Anyone wishing to submit written comments for the public comment file may do so at the public meeting or by mail, email or fax to Ellen Gilinsky, Virginia Department of Environmental Quality, 629 E. Main Street, 9<sup>th</sup> Floor, Richmond, VA 23219, phone 804-698-4375, fax 804-698-4347, email: egilinsky@deq.state.va.us. Written comments must include the name and address of the commenter. In order to be considered comments must be received by 5:00 p.m. on the date established as the close of the comment period. A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

## Participatory Approach

*Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

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The Board is using the participatory approach to develop a proposal.

### Impact on family

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulation will have no affect on the institution of the family and family stability.